

## **REMARKS**

### **I. Summary of the Office Action**

The Office Action mailed April 2, 2008 (“the Office Action”) made the following objections and/or rejections, each of which is addressed in more detail below:

Claims 1, 3-6, 11, 14-15, and 31-40 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,339,392 (“Risberg”) in view of U.S. Patent No. 7,068,288 (“Good”).

Claims 12-13 and 16 were rejected under 35 U.S.C. 103(a) as being unpatentable over Risberg in view of Good further in view of Official Notice.

### **II. Status of the Claims**

The present application includes claims 1, 3-6, 11-16, and 31-40.

### **III. Interview Summary**

The Applicant first turns to the Interview Summary mailed April 30, 2008 for the telephonic interview between the Examiner and the Applicant’s representative Mark Triplett on January 8, 2008. The Applicant thanks the Examiner for taking the time for the interview and for re-considering Risberg and other references in light of the discussion.

### **IV. Claim Rejections – 35 U.S.C. 103**

The Applicant next turns to the rejection of claims 1, 3-6, 11, 14-15, and 31-40 under 35 U.S.C. 103(a) as being unpatentable over Risberg in view of Good. The Applicant respectfully submits that neither Risberg nor Good, alone or in combination, teaches or suggests the entirety of the limitations recited in the pending claims for at least the reasons discussed below.

Risberg generally relates to a software system which permits the user to create custom active documents with a layout, look, and content defined by the user. The Applicant notes that Risberg has been already discussed at length in this case and, for brevity, that discussion will not be repeated here.

The Applicant agrees that, among other deficiencies, “Risberg et al. fails to teach rearrangement of the layout of a display based on a change in state for a workspace,” as noted at page 8 of the Office Action. The Office Action then turns to Good to cure this deficiency, although, as discussed below, the Applicant respectfully submits that Good fails to do so.

Good generally relates to moving graphical objects on a computer system. More particularly, as discussed beginning at col. 3, line 15, Good discusses a user interface for positioning graphical objects in the display area of a free form system. A selected object may operate in a first state where it can be moved to different positions within the display area. The selected object may further operate in a second state where movement of the selected object causes other graphical objects within its path of movement to also move. A user may dynamically switch between these states based on signals provided to the system.

In other words, a graphical object in Good may be switched into a second state by a user whereby movement of the object causes other objects in the path of movement to also move. For example, as discussed beginning at col. 7, line 26, Good allows a user to add content to an object (making it larger) or drag an object in a display area and have other objects make room/move out of the way.

Thus, Good discusses moving graphical objects in response to user actions. However, Good does not cure at least the deficiencies of Risberg discussed above. That is, Good does not teach or suggest rearrangement of the layout of a display based on a change in state **for a workspace** which is associated with a plurality of windows. Further, Good does not teach or suggest that this rearrangement occur based on detecting a trigger by analyzing incoming data feeds related to one or more tradeable objects. Rather, at most, Good discusses moving graphical objects in a display area based on **a user-input-driven** state change **for one of the objects** in the display area. That is, Good merely discusses that windows may be moved around based on user input.

Accordingly, without conceding the propriety of the asserted combination, the Applicant respectfully submits that, even in view of the knowledge of one of ordinary skill in the art, Good does not cure the deficiencies of Risberg discussed above.

Independent claim 1 recites “upon detecting the trigger, changing a state of the plurality of windows being displayed according to the second state in the workspace, the second state comprising a different arrangement of the plurality of windows in the workspace than the first

state.” Independent claim 40 recites similar limitations. Risberg does not teach or suggest such limitations. Good also does not teach or suggest such limitations. Thus, neither Risberg nor Good, alone or in combination, teaches or suggests the entirety of the limitations recited in the pending claims. Therefore, the Applicant respectfully submits that independent claims 1 and 40 should be allowable over the cited art of record for at least the reasons discussed above.

With respect to claims 3-6, 11, 14-15, and 31-39, these claims depend from independent claim 1. The Applicant respectfully submits that because claim 1 should be allowed for at least the reasons discussed above, claims 3-6, 11, 14-15, and 31-39 should also be allowed.

The Applicant next turns to the rejection of claims 12-13 and 16 under 35 U.S.C. 103(a) as being unpatentable over Risberg in view of Good further in view of Official Notice. The Applicant first notes that claims 12-13 and 16 depend from independent claim 1. The Applicant respectfully submits that because claim 1 should be allowed for at least the reasons discussed above, claims 12-13 should also be allowed.

Next, the Applicant respectfully traverses the Examiner’s assertions of Official Notice as further set forth below. Alternatively, if the Examiner’s assertions are based on the personal knowledge of the Examiner, then under MPEP § 2144.03(C) and 37 C.F.R. § 1.104(d)(2), the Examiner’s assertions must be supported by an affidavit from the Examiner.

According to MPEP § 2144.03(A), Official Notice, without supporting references, should only be asserted when the subjects asserted to be common knowledge are “capable of instant and unquestionable demonstration as being well-known.” That is, the subjects asserted must be of “notorious character” under MPEP § 2144.03(A).

However, the Applicant respectfully submits that the subject matter of the Examiner’s assertions of Official Notice is not well-known in the art as evidenced by the searched and cited prior art. The Applicant respectfully submits that the Examiner has performed “a thorough search of the prior art,” as part of the Examiner’s obligation in examining the present application under MPEP § 904.02.

Additionally, the Applicant respectfully submits that the Examiner’s searched and cited references found during the Examiner’s thorough and detailed search of the prior art are indicative of the knowledge commonly held in the art. However, in the Examiner’s thorough and detailed search of the relevant prior art, none of the prior art taught or suggested the subject

matter of the Examiner's assertions of Official Notice. That is, the Examiner's thorough and detailed search of the prior art has failed to yield any mention of the teachings that the Examiner is asserting as widely known in the art. The Applicant respectfully submits that if the subject matter of the Examiner's assertions of Official Notice had been of "notorious character" and "capable of instant and unquestionable demonstration as being well-known" under MPEP § 2144.03(A), then the subject matter would have appeared to the Examiner during the Examiner's thorough and detailed search of the prior art.

If the Examiner had found any teaching of relevant subject matter, the Examiner would have been obligated to list the references teaching the relevant subject matter and make a rejection. Consequently, the Applicant respectfully submits that the prior art does not teach the subject matter of the Examiner's assertions of Official Notice and respectfully traverses the Examiner's assertions of Official Notice.

The Applicant specifically challenges the Examiner's assertions of Official Notice with regard to the following:

1. "it would have been obvious to one skilled in the art at the time the invention to include profit/loss and net position data as part of financial analysis and that this provides the trader with useful information about whether or not to buy or sell a stock and that such information can enhance investment returns to the user."

2. "it would have been obvious to one skilled in the art at the time of invention to include time considerations for a trigger and that it would be useful, for example, where the trigger is activated during a trading session."

As stated above, the Applicant respectfully traverses the Examiner's assertions of Official Notice and submits that the subject matter is not of such "notorious character" that it is "capable of instant and unquestionable demonstration as being well-known." Under MPEP 2144.03, the Examiner is now obligated to provide a reference(s) in support of the assertions of Official Notice if the Examiner intends to maintain any rejection based on the assertions of Official Notice. Additionally, the Applicant respectfully requests the Examiner reconsider the assertions of Official Notice and provide to Applicant any basis for the Examiner's assertions of Official Notice.

V. Conclusion

In general, the Office Action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to challenge such statements in the future should the need arise (for example, if such statements should become relevant by appearing in a rejection of any current or future claim).

All the stated grounds of objection and rejection have been respectfully traversed, accommodated, or rendered moot. The Applicant therefore submits that the present application is in condition for allowance. If the Examiner believes that further dialog would expedite consideration of the application, the Examiner is invited to contact Trading Technologies in-house Patent Counsel Adam Faier at 312-698-6003, or the undersigned attorney or agent.

Respectfully submitted,

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